MC 2648/2007
BEFORE
HON'BLE JUSTICE RANJAN GOGOI
.
While Misc. Case No.2648/2007 has been filed by the Respondent No.5 in the writ petition seeking vacation/modification/ alteration of this Court's interim order of status quo dated 22.6.2007 the other Misc. Case No.2739/2007 has been filed by the writ petition seeking extension of the aforesaid order of status quo.
The facts of the writ petition out of which these two miscellaneous applications have arisen may briefly be noticed.
The writ petitioner was settled with the Balisatra By-weekly Market by the authority of the Nagaon Zilla Parishad. On account of certain Court cases that came to be filed in connection with the aforesaid settlement the petitioner could come into possession of the market only on 13th February 2007. His lease was valid upto 30.6.2007. An order dated 18.6.2007 was passed by the Zilla Parishad authority requiring the petitioner to pay a sum of Rs.57,600/- within a period of two days on account of kist money. Aggrieved, this writ petition was filed wherein the interim order of status quo was passed on 22.6.2007. Notwithstanding the fact that the term of the market had expired on 30.6.2007 and no fresh lease has been granted to the petitioner yet the petitioner continues to be in possession of the market. Such possession, the Respondent No.5 contends to be by virtue of the status quo order of this Court. It is in the aforesaid circumstances, that the two miscellaneous application have been filed, as noticed above.
An order dated 21.5.2007 passed by this Court in WP(C) No.2363 of 2007 has been placed before the Court by Sri A. B. Choudhury, learned counsel for the petitioner, to contend that the NIT dated 17.4.2007 in so far as the market in question is concerned, has been stayed by the Court and that in the interregnum the petitioner continues to be in possession of the market which possession should be maintained.
On the other hand, Sri A. K. Goswami, learned counsel for the applicant/respondent No.5 has submitted that the status quo order of the Court dated 22.6.2007 must be clarified as not having obliged the Zilla Parishad to continue with the possession of the market by the writ petitioner after the expiry of the term and further that if the Zilla Parishad authorities desire to run the market during the interregnum i.e. during the pendency of the writ petition registered and numbered as WP(C) No.2363/2007 it is open for the said authority to make such interim arrangement by taking into consideration the case of all eligible persons.
As the term of market settled in favour of the petitioner has expired on 30.6.2007 this Court must understand that the status quo order of the Court dated 22.6.2007 has ceased to operate after the said date. As the NIT issued for settlement of the market for fresh term has been subjected to certain interim orders of the Court, as notice above, and the Zilla Parishad authorities cannot, in law, proceed to settle the market on the basis of the NIT issued, it will certainly be open for the Zilla Parishad authorities to run the market during the interregnum by making such interim arrangements as may be deemed fit and proper. However, in making such arrangements not only the case of the writ petitioner or for that matter the Respondent No.5 but the cases of all other eligible persons must be considered by the Zilla Parishad authorities.
In view of the above, both the miscellaneous applications are disposed of with the direction that the cases of the respective parties before the Court as well as other persons who may be desirous of taking interim settlement of the market should be considered and such interim arrangement should be finalized by the Zilla Parishad authorities within two weeks from the date of receipt of a certified copy of this order.
Till such interim arrangement is finalized the possession of the writ petitioner over the market should be maintained.
This will dispose of both the Misc. Cases.